IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL NO. 47 OF 1982

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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CHAUDHARI DEVSHIBHAI OKHABHAI - Appellant(s)
Versus
GUJARAT ELECTRICITY BOARD - Respondent(s)

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Appearance :
Shri Y. F. Mehta for the Appellant(s).
None for the Respondent though name of Shri M.D. Pandya appears.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 04/12/2006

ORAL JUDGMENT

The plaintiff, being aggrieved by issuance of a supplementary bill, filed a civil suit submitting, *inter alia*, that before issuance of the bill, a notice to show

cause ought to have been given to the plaintiff and the Gujarat Electricity Board was required to convince the Court that the amount of the bill was showing correct conversion of energy into money.

2. The learned trial Court, after recording the evidence of the parties, decreed the suit, but, the learned Appellate Court, in the appeal filed by the Gujarat Electricity Board, held that the bill to the extent of 2/3rd was right, while the bill beyond 2/3rd was illegal. It, accordingly, modified the decree granted by the trial Court.

3. The appeal has been admitted for hearing on the following substantial questions of law:

> *"1. The learned first Appellate Court ought to have held that even on the principles of natural justice, the so-called supplementary or average bill and the notice to disconnect were void and illegal as the appellant was not given an opportunity to have his say in the matter.*
>
> *2. Whether there was any evidence to show that amount of energy for which bills are increased was reasonably consumed?"*

4. So far as the first question is concerned, it

would be trite to say that before issuing a supplementary bill, the Gujarat Electricity Board would not be required to issue a notice. In case anybody is aggrieved by issuance of the bill, then, he can always challenge the bill before a Civil Court or by making a representation to the Board. If it convinces either the Board or the Court, then, they would grant the concerned relief. Under the circumstances, the hearing was not required to be afforded.

5. The only other question is whether there was any evidence to show that the amount of energy for which the bills were issued, was, in fact, consumed. Under the agreement for supply, if the Board comes to a conclusion that the energy has been consumed in excess of the contract load or because of non-recording of energy in the meter or because of inappropriate connections, which could lead to incorrect recording of the energy consumed, the Board has to act in accordance with its own circulars and agreements. In the present matter, the Board had recalculated the entire charges, but, the Court, on recalculation of everything and after taking the average consumption for last six months, had reduced the bill to its 2/3rd. In the opinion of this Court, the first Appellate Court was not unjustified in deciding the

controversy once for all. Accordingly, I answer both the questions against the interest of the appellant-plaintiff.

6. I find no reason to interfere. The appeal is dismissed. No costs.

[R.S.Garg, J.]

*kamlesh**